

REMARKS/ARGUMENTS

Prior to entry of this Amendment, the application included claims 1, 8-17, 20 and 24-42. No claims have been amended, added, or canceled. Hence, after entry of this Amendment, claims 1, 8-17, 20 and 24-42 remain pending for examination.

The Office Action rejected claims 1, 8-17, 20 and 24-42 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,233,448 to Alperovich et al. (“Alperovich”) in view of U.S. Patent No. 6,629,136 to Naidoo (“Naidoo”).

§ 103(a) Rejections

The Applicants respectfully traverse the rejection of all pending claims since the Office Action has not established a case of *prima facie* obviousness. The cited references do not teach or suggest all claim elements and the Office Action does not provide a citation for the stated motivation to combine the reference teaching.

Claims 1 and 17 both recite “wherein the specification defines a geographic region having a predetermined radius from a current location of the subscriber that changes dynamically as the current location changes.” The Office Action correctly states that Alperovich does not teach this. But either does Naidoo. At the location cited in Naidoo for this teaching, Naidoo appears to teach a geographic region having a particular radius. But Naidoo does not teach that the region changes dynamically as the subscriber’s current location changes. Hence, claims 1 and 17 are believed to be allowable, at least for this reason.

Moreover, the Office Action does not provide a citation in the prior art to the stated motivation to combine the references. The fact that the stated motivation existed in the prior art appears to be based on facts within the personal knowledge of the Examiner. Hence, the Applicants respectfully traverse the rejection and request an affidavit in compliance with 37 C.F.R. § 1.104(d)(2) stating the facts upon which the Examiner bases the motivation, specifically the fact that the motivation existed at the time of the Applicants’ invention. In the absence of

this required affidavit, or other documentary evidence, the Applicants believe claims 1 and 17 to be allowable for this additional reason.

Further, the Applicants previously submitted declarations of prior invention under 37 C.F.R. § 1.131 in which all available inventors declared that they had conceived the present invention prior to September 20, 1999, and were diligent thereafter in reducing the invention to practice. These declarations were successful in overcoming the Myers reference (U.S. Patent No. 6,618,594) having a priority date of September 20, 1999. Hence, the Applicants have established invention prior to November 15, 1999, the priority date of Naidoo. Naidoo is, therefore, not available as prior art, and claims 1 and 17 are believed to be allowable for this additional reason.

The remaining claims depend from either claim 1 or claim 17 and are believed to be allowable, at least for the foregoing reasons.

Conclusion

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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